

JUDGE WOODS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

14 CV 7431

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NORTH JERSEY MEDIA GROUP INC., :

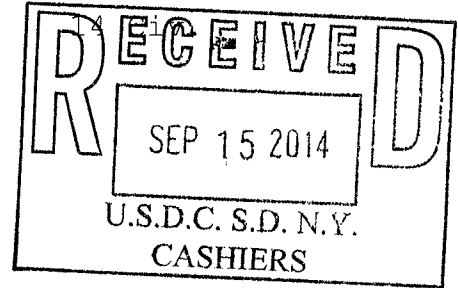
Plaintiff, :

-against- :

ZAZZLE, INC. D/B/A ZAZZLE.COM, :

Defendant. :

-----x



COMPLAINT AND JURY DEMAND

Plaintiff North Jersey Media Group Inc. ("NJMG"), by its undersigned attorneys, for its complaint against defendant Zazzle, Inc. d/b/a Zazzle.com ("Zazzle") alleges:

Nature of the Action

1. NJMG is bringing this action to enforce its copyright in its iconic photograph of three firefighters raising the American flag at the ruins of the World Trade Center site on September 11, 2001 (the "WTC Flag Raising Photograph").

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the claim in this action pursuant to 28 U.S.C. §§ 1331 and 1338 because it arises under the Copyright Act, 17 U.S.C. § 101 et seq.

3. Upon information and belief, venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(a).

4. Defendant is subject to the personal jurisdiction of this Court pursuant to N.Y. C.P.L.R. § 302 based upon the sale of infringing materials into this District.

Parties

5. NJMG is engaged in the business of news reporting. NJMG is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business in Woodland Park, New Jersey. NJMG is the leading provider of news and marketing services in northern New Jersey. The Record and its sister publication, Herald News, are award-winning daily newspapers that reach nearly half a million readers a day with local, investigative and enterprise reporting. Forty-nine community newspapers circulate to 778,000 households across Bergen, Passaic, Essex, Morris, Hudson and Sussex counties. Together, the company's daily and community newspapers reach 98% of homes across Bergen and Passaic counties.

6. Upon information and belief, Zazzle is a California corporation, with its primary place of business located at 1800 Seaport Boulevard, Redwood City, California, 94063.

NJMG's Copyright

7. On or about September 11, 2001, an employee of NJMG, acting within the scope of his employment, took the WTC Flag Raising Photograph. A copy is annexed as Exhibit A. The WTC Flag Raising Photograph has become an iconic image that has received international attention. Because an employee of NJMG took the WTC Flag Raising Photograph while acting within the scope of his employment, it is a "work made for hire" as defined by Section 101 of the Copyright Act. NJMG is therefore the sole owner of the copyright in the WTC Flag Raising Photograph.

Defendant's Infringing Acts

8. Defendant has, without permission, sold or induced the sale of products that display a copy of the WTC Flag Raising Photograph, including but not limited to, sales into the State of New York. Defendant has sold or induced the sale of these products through its website www.zazzle.com. Upon information and belief, Zazzle obtained one copy of the WTC Flag Raising Photograph from a user named "Benny_Hays" and one copy from a user named "aberendt."

9. Upon information and belief, defendant Zazzle copied and distributed NJMG's WTC Flag Raising Photograph on products including, but not limited to, the "9/11 - Never Forget T Shirt", and the "9/11 Tribute Poster."

CLAIM FOR RELIEF
(Copyright Infringement - 17 U.S.C. § 501)

10. NJMG repeats the allegations in paragraphs 1 through 9 as if set forth in full.

11. NJMG owns, registered, and received the United States Certificate of Copyright Registration No. VA 1-014-297 for the WTC Flag Raising Photograph ("WTC Flag Raising Copyright"). A copy of the United States Certificate of Copyright Registration is annexed as Exhibit B.

12. NJMG's WTC Flag Raising Copyright is valid and enforceable.

13. Defendant has infringed NJMG's WTC Flag Raising Copyright by making and distributing unauthorized copies of it in violation of 17 U.S.C. § 501.

14. Defendant's acts have irreparably damaged and, unless enjoined, will continue to irreparably damage NJMG. NJMG has no adequate remedy at law for these wrongs and injuries. NJMG is, therefore, entitled to a preliminary and/or permanent injunction restraining and enjoining defendant and its agents, servants, employees, and attorneys and all persons acting in concert with it, from infringing NJMG's WTC Flag Raising Copyright.

15. Defendant has willfully infringed NJMG's WTC Flag Raising Copyright.

16. NJMG is entitled to recover damages sustained as a result of defendant's unlawful conduct including defendant's profits, or alternatively, at NJMG's election, statutory damages.

WHEREFORE, NJMG demands judgment:

A. Preliminary and/or permanently enjoining defendant, its agents, servants, employees, and attorneys and all those acting in concert with it from infringing NJMG's WTC Flag Raising Copyright in violation of 17 U.S.C. § 501;

B. Awarding NJMG defendant's profits, or alternatively, at NJMG's election, statutory damages, as a result of defendant's infringement of NJMG's WTC Flag Raising Copyright;

C. Awarding NJMG its costs in this action, including its reasonable attorneys' fees pursuant to 17 U.S.C. § 505; and

D. Granting such other and further relief as to this Court seems just and proper.

Jury Trial Demand

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, NJMG hereby demands a trial by jury of all issues

that are so triable.

Dated: New York, New York
September 12, 2014

DUNNEGAN & SCILEPPI LLC

By Richard Weiss
William Dunnegan (WD0415)
wd@dunnegan.com
Richard Weiss (RW4039)
rw@dunnegan.com
Attorneys for Plaintiff
North Jersey Media Group Inc.
350 Fifth Avenue
New York, New York 10118
(212) 332-8300

Exhibit A

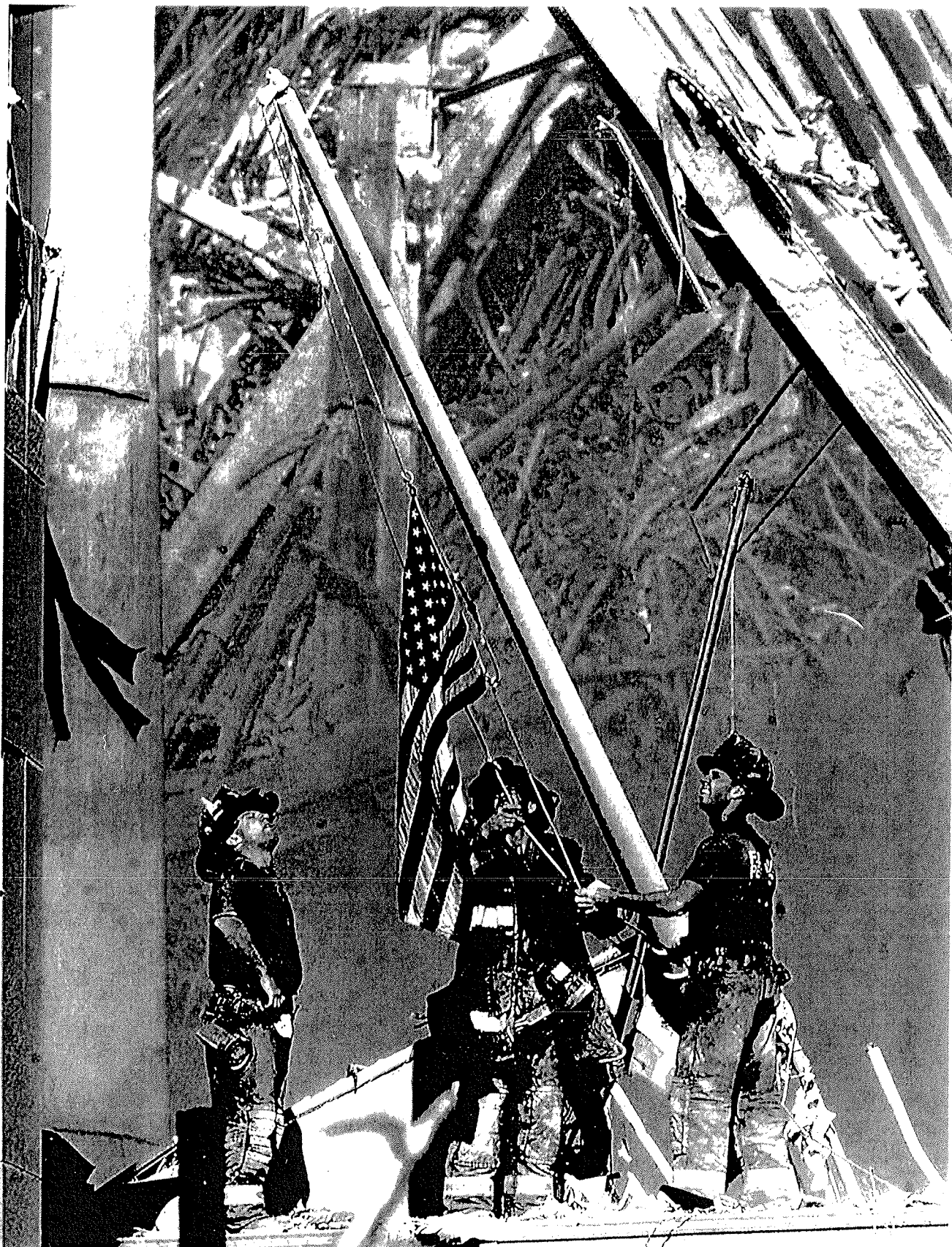


Exhibit B

Additional Certificate (17 U.S.C. 706)
Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

FORM VA
For a Work of the Visual Arts
UNITED STATES COPYRIGHT OFFICE

VA 1-014-287



REGISTERED DATE OF REGISTRATION

10
Month

05
Day

2001
Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

NATURE OF THIS WORK ▼ See Instructions

TITLE OF THIS WORK ▼

Three Firefighters Raising The American
Flag on the Ruins of the World Trade Center

Photograph

PREVIOUS OR ALTERNATIVE TITLES ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼

a North Jersey Media Group Inc.

Was this contribution to the work a
"work made for hire"?
☒ Yes
☐ No

Author's Nationality or Domicile
Name of Country

OR Citizen of New Jersey
Domiciled in New Jersey

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See Instructions

☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☒ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

NAME OF AUTHOR ▼

b Was this contribution to the work a
"work made for hire"?
☐ Yes
☐ No

Author's Nationality or Domicile
Name of Country

OR Citizen of
Domiciled in

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ No
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☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

3

a Year in Which Creation of This Work Was Completed

2001

This information must be given in all cases.

b Date and Notice of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month 9

Day 12

Year 2001

U.S.A.

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

North Jersey Media Group Inc.
150 River Street

Hackensack, N.J. 07601-7132

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

4

See instructions before completing this space.

DO NOT WRITE IN THESE SPACES

APPLICATION RECEIVED

ONE DEPOSIT RECEIVED

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ▼

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions. • Sign this form at line 8.

DO NOT WRITE HERE
Page 1 of 2 pages

EXAMINED BY <i>5744</i>	FORM VA
CHECKED BY	
<input type="checkbox"/> CORRESPONDENCE	FOR COPYRIGHT OFFICE USE ONLY
Yes	

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

Sally A. Steffen, Esquire
 Ballard Spahr Andrews & Ingersoll, LLP
 1735 Market Street, 51st Floor
 Philadelphia, PA 19103

Area code and daytime telephone number ▶ (215) 864-8222

Fax number ▶ (215) 864-8999

Email ▶ steffen@ballardspahr.com

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of North Jersey Media Group Inc.

Name of author or other copyright claimant, or owner of exclusive right(s)

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Sally A. Steffen

Date ▶ 9/28/01

Handwritten signature (X) ▼

Sally A. Steffen

Certificate will be mailed in window envelope to this address:

Name ▼

Sally A. Steffen, Esquire

Number/Street/Apt ▼

Ballard Spahr Andrews & Ingersoll, LLP

1735 Market Street, 51st Floor

City/State/ZIP ▼

Philadelphia, PA 19103

Complete all necessary spaces
 Sign your application in space 8

1. Application form
 2. Non-refundable filing fee in check or money As of July 1, 2000,
 the filing fee for
 3. Deposit material Form VA is \$34.

Library of Congress
 Copyright Office
 101 Independence Avenue S.E.
 Washington, D.C. 20559-6000

17 U.S.C. § 606(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

June 1999—100,000
 WEB REV: June 1999

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